

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #7	CCRB Case #: 201902335	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/21/2019 5:00 PM	Location of Incident: 5th Avenue and 10th Street	Precinct: 78	18 Mo. SOL 8/21/2020	EO SOL 4/7/2021	
Date/Time CV Reported Mon, 03/18/2019 11:24 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/18/2019 11:24 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Fazle Tanim	15187	957204	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Fazle Tanim	Abuse: Police Officer Fazle Tanim refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Fazle Tanim	Abuse: Police Officer Fazle Tanim issued a summons to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On March 18, 2019, § 87(2)(b) filed this complaint with the CCRB.

On February 21, 2019, at approximately 5:00 p.m. § 87(2)(b) was driving a scooter when he was pulled over by PO Fazle Tanim of the 78th Precinct at the corner of 5th Avenue and 10th Street in Brooklyn for failing to yield to pedestrians at an intersection. PO Tanim issued a summons for failure to yield to pedestrians and a summons for operating a motorcycle without a class M license to § 87(2)(b). § 87(2)(b) asked PO Tanim for his shield number which PO Tanim allegedly failed to provide (**Allegation A – Abuse of Authority: § 87(2)(g)**). PO Tanim then issued § 87(2)(b) a summons for refusal to comply with a lawful order (**Allegation B – Abuse of Authority: § 87(2)(g)**). PO Tanim then left the location.

There was body worn camera video recorded during this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Fazle Tanim refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) was driving a moped scooter when he made a right turn from 9th Street onto 5th Avenue in Brooklyn. PO Tanim was assigned to summons auto and stated that he was assigned to that location due to the high number of traffic incidents there. PO Tanim claimed that § 87(2)(b) made the right turn while seven pedestrians were in the crosswalk. § 87(2)(b) disputes PO Tanim's allegation that he had failed to yield to pedestrians. PO Tanim pulled § 87(2)(b) over at the intersection of 10th Street and 5th Avenue.

§ 87(2)(b) stated that he does not speak or understand English well and his CCRB interview was conducted in Mandarin Chinese.

PO Tanim's BWC video showed that when he first approached § 87(2)(b) PO Tanim identified himself by stating, "I'm Tanim. Officer Tanim, 78 Precinct." In his CCRB interview, § 87(2)(b) stated that after PO Tanim issued him two summonses, § 87(2)(b) asked PO Tanim, "What's your name sir?" However, PO Tanim's BWC video showed that § 87(2)(b) stated, "I need to have your number." § 87(2)(b) stated that PO Tanim responded by taking back both summonses from § 87(2)(b) returning to his police vehicle and issuing him a third summons. § 87(2)(b) stated PO Tanim did not subsequently identify himself and did not mention receiving a business card from PO Tanim.

The BWC video showed that after § 87(2)(b) asked him for his shield number, PO Tanim initially did not respond. PO Tanim turned his back to § 87(2)(b) walked to his vehicle and deactivated his BWC. In his CCRB statement, PO Tanim claimed he did not hear § 87(2)(b)'s request at that time and that was why walked away and deactivated his BWC. PO Tanim stated that § 87(2)(b) then approached him immediately after and asked him for his name and shield number. PO Tanim reactivated his BWC after the request, so there was no audio recording of the request, however, the video shows that there was an interaction between PO Tanim and § 87(2)(b). After PO Tanim

reactivated his BWC, he issued a third summons to § 87(2)(b). The BWC video showed that when he issued the summons to § 87(2)(b) he stated, “This is my information that you asked for it. My name, my shield, everything.” In his CCRB statement, PO Tanim stated that he provided a business card to § 87(2)(b) with his name and shield number on it and included it with the summons. However, the video did not show whether PO Tanim gave a business card to § 87(2)(b). PO Tanim did not claim to have provided his shield number verbally, and the video does not record PO Tanim stating his shield number. PO Tanim’s shield number is not written on any summonses.

Patrol Guide procedure 203-09 states: Courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so. Allow the person ample time to note this information.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (B) Abuse of Authority: Police Officer Fazle Tanim issued a summons to

§ 87(2)(b)

It is undisputed that PO Tanim initially issued two summonses to § 87(2)(b) one for failure to yield to pedestrians and one for driving a motorcycle without a class M license. PO Tanim then attempted to return to his vehicle and end the interaction. It is also undisputed that PO Tanim issued a third summons to § 87(2)(b) after § 87(2)(b) requested his shield number. The third summons issued to § 87(2)(b) was for violation of NY Vehicle and Traffic Law section § 1102. The description of the offense on the summons was “failed to comply with lawful order.” (BR 1)

PO Tanim stated that § 87(2)(b) committed this violation in two instances. Firstly, § 87(2)(b) failed to comply with his order to provide his driver’s license. Secondly, § 87(2)(b) failed to back away from PO Tanim after he requested his name and shield number.

In his CCRB statement, PO Tanim claimed that § 87(2)(b) refused to provide identification for approximately five to six minutes, by claiming not to understand English. PO Tanim described § 87(2)(b)’s actions as “playing games” with him. During that time, PO Tanim informed § 87(2)(b) that he could be removed to the police station, yet he still refused until PO Tanim pointed to the license in his wallet. PO Tanim believes that § 87(2)(b) was being disingenuous about not speaking English because § 87(2)(b) appeared to understand his instructions later. In his CCRB interview, § 87(2)(b) did not mention any threats of arrest or any issues in providing identification. He stated however, that he did not understand much of what PO Tanim said because he did not understand English.

§ 87(2)(g)

PO Tanim's BWC video showed that when PO Tanim first approached § 87(2)(b) and identified himself, he asked § 87(2)(b) for his license and registration. § 87(2)(b) responded by pointing at his scooter and stating, "It's forty. It's forty." In his CCRB statement, § 87(2)(b) stated that he believed he did not need a Class M motorcycle license because his scooter had an engine displacement of only 40 cubic centimeters. In the BWC video, PO Tanim told § 87(2)(b) he did not understand him and asked again for his license. § 87(2)(b) responded, "No license. It's forty." PO Tanim then told § 87(2)(b) if he did not have any identification, he would have to take him to the stationhouse. PO Tanim asked § 87(2)(b) if he understood English. § 87(2)(b) replied, "No English." § 87(2)(b) took out his wallet and provided a paper to PO Tanim, but PO Tanim repeatedly pointed at § 87(2)(b) and stated, "Your ID. This is your ID? Your ID. You, you, you, who you are. Show me your wallet. Your ID. Take it out." § 87(2)(b) then pulled his driver's license from his wallet. This was approximately 90 seconds after the first time PO Tanim asked § 87(2)(b) for his driver's license. § 87(2)(b) told PO Tanim, "This is car license." PO Tanim told § 87(2)(b) "This is called ID." § 87(2)(b) responded, "Oh ID." PO Tanim asked § 87(2)(b) for his registration. § 87(2)(b) did not appear to understand, however, the registration was visible in his hand, so PO Tanim stated, "The yellow one." § 87(2)(b) then provided the registration. After reviewing the registration, PO Tanim admonished § 87(2)(b) for making a right turn while seven people were in the intersection. (BR 2)

PO Tanim returned to the police vehicle and issued two summonses, one for failing to yield to pedestrians and the second, for riding a motorcycle without a class M driver's license. PO Tanim stated that he decided not to issue a third summons to § 87(2)(b) for failing to provide his identification at this point because the summonses "cost a lot of money" and he only wanted to issue the two summonses because they were the "important ones."

The BWC video footage showed that § 87(2)(b) asked PO Tanim for his shield number after receiving the first two summonses. PO Tanim then walked to his police vehicle and deactivated his BWC while at the driver's side door of the police vehicle.

PO Tanim stated that after he deactivated his camera, § 87(2)(b) approached him from behind and asked for his name and shield number. PO Tanim told § 87(2)(b) to back away to maintain a safe distance as he has been trained to do. § 87(2)(b) initially failed to comply, but complied after PO Tanim told him two or three times and turned on his BWC. PO Tanim stated that he decided at that point to issue § 87(2)(b) with a third summons for failing to comply with a lawful order. PO Tanim stated he thought at that point about § 87(2)(b) "playing games" by claiming not to understand English and that § 87(2)(b) had walked up behind him and refused to back away from him immediately.

§ 87(2)(b) stated that when he asked PO Tanim for his name, PO Tanim took back the two summonses he already issued and returning to the police vehicle. § 87(2)(b) did not mention PO Tanim instructing him to back away or issuing him any other commands.

PO Tanim's BWC video does not support PO Tanim's assertion that § 87(2)(b) refused to back away from him. According to the timestamp in the BWC, PO Tanim reactivated his BWC approximately 24 seconds after deactivating it. PO Tanim's model of body worn camera records a

30 second buffer of video without sound, proceeding the activation of the camera. Therefore, the period between PO Tanim deactivating and reactivating his camera was recorded without sound. After deactivating his BWC, PO Tanim was still standing at the open driver's door of his vehicle when he turned around. § 87(2)(b) was at the front left side of the police vehicle. PO Tanim then closed the driver's door and walked to § 87(2)(b) standing at the front left side of the police vehicle. After an interaction of approximately 2 seconds, PO Tanim returned to the police vehicle and entered the driver's seat. As he entered the driver's seat, PO Tanim waved at § 87(2)(b) towards the sidewalk, and § 87(2)(b) walked towards the sidewalk. PO Tanim reactivated his BWC while seated in the driver's seat. **(BR 3)**

While alone in the vehicle, PO Tanim spoke out loud to himself, "You want my number, I'll give it to you, my number. No problem at all." **(BR 4)** In his CCRB interview, PO Tanim stated his comment to himself indicated that he was complying with § 87(2)(b)'s request for his name and shield number.

After writing the summons, PO Tanim returned to § 87(2)(b) and told him he was receiving three summonses for: failing to yield to pedestrians, driving a motorcycle without a class M license and failing to comply with a lawful order. PO Tanim also added, "This is my information that you asked for it. My name, my shield, everything." As PO Tanim was speaking, § 87(2)(b) was on the cell phone. He could be heard speaking into the phone in Mandarin, "Get a translator." § 87(2)(b) did not say anything to PO Tanim, and PO Tanim returned to his vehicle and left.

NY Vehicle and Traffic Law section §1102 states – No person shall fail or refuse to comply with any lawful order or direction of any police officer or flag person or other person duly empowered to regulate traffic. **(BR 5)**

In People v. Bohn, 397 N.Y.S.2d 514 (1977) The court held that NY VTL section §1102 was designed to compel obedience to an order of a police officer regulating the control or movement of traffic. The failure or refusal of a motorist to exhibit a license or registration is not a violation that falls within the scope of VTL section §1102. The opinion noted that a motorist who failed or refused to identify themselves could be arrested and transported to a police station. **(BR 6)**

In People v. DeCerbo, 4 Misc. 3d 23 (2004) A defendant was charged with violation of VTL section §1102 after he exited his vehicle during a vehicle stop and initially refused to return to his vehicle, but complied after four warnings. The court also held that NY VTL section §1102 was designed to compel obedience to traffic directions, and that the defendant's actions in refusing to return to his vehicle did not fall under the scope of VTL section §1102. **(BR 7)**

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [REDACTED]

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first and only CCRB complaint involving § 87(2)(b) (BR 8).
- PO Fazle Tanim has been a member of service for four years, and has had one other complaint and one allegation pleaded against him, which was not substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- An enquiry was made to the Office of the New York City Comptroller for any notices of claim and will be added to the case file upon the receipt of the response.
- § 87(2)(b)

Squad No.: 7

Investigator: _____ SI Simon Wang _____
Signature Print Title & Name Date

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____